

Docket No.: 218874US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :

Michel RENARD, et al. : EXAMINER : BAUM, S.F.

SERIAL NO: 10/030,194 :

FILED: AUGUST 15, 2002 : ART UNIT: 1638

FOR: MUTANT GENE OF THE GRAS FAMILY AND PLANTS WITH REDUCED
DEVELOPMENT CONTAINING SAID MUTANT GENE

DECLARATION UNDER 37 C.F.R. § 1.132

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

Sir:

Now comes Michel Renard and Pierre Barret who depose and state that:

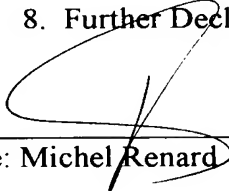
1. I am an inventor of the above-identified application.
2. I am a co-author of Foisset et al (*Theor. Appl. Genet.* **1995**, 91, 756-761).
3. I understand the English language or, at least, that the contents of the Declaration were made clear to me prior to executing the same.
4. The Examiner of the above-identified application points to the disclosure at page 3, lines 30-33 of the specification, which states "The inventors have now characterized and sequenced the BZH gene of *B. napus*, and its mutant allele *bzh*, associated with the dwarf phenotype previously observed by Foisset et al., (1995, abovementioned publication)."

5. Based on the disclosure in paragraph 4, the Examiner states "Therefore the Office contends if a skilled artisan wants a plant with the mutant bzh gene, they can contact Foisset et al and request seeds comprising the mutant gene. It is known in the art that plant material disclosed in a published paper is available to the public upon request. One of skill in the art would not have to recreate the mutant bzh gene. The Office contends a plant comprising the mutant sequence of Applicants' was available to the public more than one year prior to Applicants' priority date."

6. Contrary to the Examiner's assertions indicated in paragraph 5 above, no biological material containing the bzh gene was made available to the public or would have been provided to the public upon request prior to the filing date of the above-identified application.

7. I declare further that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

8. Further Declarant saith not


Name: Michel Renard

Date May 14, 2009


Name: Pierre Barret

Date May 7, 2009